

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10259 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
(No. 1 to 5 NO)

BALKRISHNADAS GULAMDAS

GODIWALA

Versus

DY.SECRETARY

Appearance:

MR MI HAVA for Petitioner

MR TH SOMPURA, Ld.Govt.Counsel for Respondent

CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 04/02/97

ORAL JUDGEMENT

The Competent Authority, Surat, under the orders dated January 30, 1987, had come to the conclusion that, after taking certain lands the total holding of the land holder would be 1490.67 sq. meters. This calculation has been done by the Competent Authority on the basis of certain map and the report being presented by the Surveyor. Later on the Government wanted to have the matter in revision and therefore the necessary show cause notice came to be issued. After hearing the parties, the Government under the orders dated December 20, 1991 has come to the conclusion that, the above said deductions

could not have been granted. The contention of the land holder of course was that, a State Highway was passing from the land in question and regard being had to the Bombay Land Revenue Rules certain area was required to be kept open. It appears that this case has not been accepted by the State Government. Ultimately the State Government under the impugned orders has come to the conclusion that the excess vacant land would be 908.00 sq. meters.

The contention coming from the petitioner through learned counsel Mr. Hava is that, everything was presented before the Competent Authority but that the same has not been considered by the State Government. Without expressing any opinion on the merits of the case, I would say that the matter requires to be remanded to the Government so that everything could be decided afresh, after affording a reasonable opportunity of being heard to the petitioner and to present the necessary material in support of the contention. I order accordingly. The result is that the present petition succeeds in part and the same stands partly allowed. The impugned orders shall stand quashed and the matter stands remanded to the State Government as indicated above. Rule is made absolute to the above said extent. The interim relief granted earlier shall continue to operate till the remanded proceedings are over. It would be appropriate if the Government decides the matter as early as possible, and at any rate within a period of three months from the date of receipt of the writ of the present orders.
